

Appl. No. 10/716,677
Amendment dated March 29, 2005
Reply to Office Action of Dec. 30, 2004

REMARKS/ARGUMENTS FOR ALLOWANCE

Reconsideration of the subject application is requested. It is believed that the application, as amended, is in condition for allowance because of the following reasons.

The claimed inventions are not anticipated by Hull U.S. 5,117,558. To anticipate a claim of a patent under 35 U.S.C. 102(b) a reference must include each and every element of a claimed invention. See Verdegaal Bros., Inc. v. Union Oil Co., 814 F.2d 628, 631 (Fed. Cir. 1987); Jamesbury Corp. v. Litton Indust. Prods., Inc., 756 F.2d 1556, 1560 (Fed. Cir. 1985); Lindemann Maschinenfabrik GmbH v. Am. Hoist & Derrick Co., 730 F.2d 1452, 1458 (Fed. Cir. 1983).

Hull teaches a hand-held rotary barbecue rotisserie comprised of a cylindrical shaft 12, 18 with an offset end portion 22, 24, an opposite pair of prongs 14a, 14c and a handle 20 mounted for rotation on the shaft.

All of the claims are directed to the combination of a barbecue fork and a guard for covering sharp pointed tines at a forked end portion of the barbecue fork (claims 1-9) and a method for preventing injury by covering sharp pointed tines at a forked end portion of a barbecue fork. Hull neither teaches a guard nor a method for preventing injury from sharp pointed times.

Claims 2 and 3 which depend from claim 1 are further distinguishable from Hull by the elements for retaining the guard to the shank of the barbecue fork. Claims 4-8

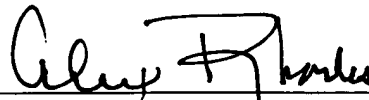
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which depend from claim 1 are directed to the material compositions of the guard. Independent claim 9 is patentably distinguishable from Hull for the same reasons as independent claim 1. Independent claim 10 is directed to a method (which is neither anticipated nor obvious from Hull) for preventing injury by covering sharp pointed tines of a barbeque fork. Claim 11 which depends from claim 10 is patentably distinguishable from Hull for the same reasons as claim 10.

Independent claims 1, 9 and 10 have been amended to more particularly distinguish the claimed inventions from Hull.

For the above reasons it is requested that the Examiner act favorably on this amendment by passing this case to allowance. Although no further changes to the application are believed to be necessary, should the Examiner believe differently, a telephone conference would be appreciated.

Respectfully submitted,



Alex Rhodes, Reg. No. 26,797
Attorney of Record
50168 Pontiac Trail, Unit No. 9
Wixom, MI 48393-2019
Tel. (248) 669-0678
Fax: (248) 669-3694

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